

Addendum A: Additional Terms and Procedures For Access to and Disclosure of Information Subject to 8 U.S.C. § 1367

Consistent with law and DHS and CBP policy, DHS/CBP may, by providing TECS access, share information protected by 8 U.S.C. § 1367 (Section 1367 information) with **Agency** personnel performing their official duties, consistent with the Memorandum of Agreement Between U.S. Department of Homeland Security, U.S. Customs and Border Protection, and **Agency** for the use of TECS (the MOA), to the extent those personnel are law enforcement officials who are performing a legitimate law enforcement purpose as identified in Sections IV and V of the MOA.

Section 1367 information includes any information relating to aliens who are seeking or have been approved for immigrant status as battered spouses, children, and parents under provisions of the Violence Against Women Act (VAWA); as victims of a severe form of human trafficking who generally are cooperating with law enforcement authorities (T visas); or, as aliens who have suffered substantial physical or mental abuse and are cooperating with law enforcement authorities (U visas). Section 1367 information includes records or other information related to such aliens even where those records or that information does not specifically identify the individual as an applicant or beneficiary of T visa, U visa, or VAWA protections. Section 1367 protections continue even after an alien has adjusted status.

Due to the restrictions on the ability to share Section 1367 information and **(b) (7)(E)** **(b) (7)(E)** within TECS, **Agency** will adhere to the following procedures before further disclosing or disseminating any Section 1367 information pursuant to Section VI.A.4 of the MOA.

Consistent with the requirements of Section VI.A. of the MOA, **Agency** will not disclose TECS data to third parties without the prior knowledge and consent of the owning agency, except as expressly authorized under the MOA, this Addendum, or otherwise required by law. To the extent the owning agency is DHS or one of its components, **Agency** will not disclose TECS data to third parties until **Agency** receives confirmation that DHS has determined whether the information is protected by 8 U.S.C. § 1367 and whether the further disclosure requested by **Agency** is consistent with legal and policy requirements related to the protection of Section 1367 information.

For purposes of this addendum, a law enforcement official is: an officer or employee of any agency or authority of the United States; a state, a territory, a political subdivision of a state or territory; a foreign government or international organization; or, an Indian tribe empowered by law to:

- (1) investigate or conduct an official inquiry into a potential violation of criminal, civil, or administrative law; or,
- (2) prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

The term “law enforcement official” includes individuals who provide technical, administrative, or other authorized support to law enforcement officers, but does not include emergency, fire, or public officials who are not acting in a law enforcement capacity.

For purposes of this addendum, legitimate law enforcement purposes are preventing, detecting, investigating or prosecuting an offense or a potential offense, or assisting a law enforcement agency or law enforcement official in such prevention, detection, investigation or prosecution, provided that these purposes fall within that law enforcement agency or law enforcement official’s lawful enforcement authority. This does not include personal or collateral purposes not related to the official functions of the law enforcement official.

In the event that **Agency** possesses TECS records that have been identified as Section 1367 information, in addition to any other applicable markings or caveats, **Agency** will mark the record with the following warning against further disclosure of the information:

This information [is/may be] protected under 8 U.S.C § 1367 as protected person information. You may not disclose this information to third parties or use it for purposes other than the purpose for which it was provided without the permission of the originating agency.

Agency will take steps to ensure that any Section 1367 information in **Agency** possession is: (1) accessed only by authorized personnel who need to know the information; (2) safeguarded and marked, as appropriate, consistent with DHS policy on sensitive unclassified information; and, (3) safeguarded according to any other applicable requirements concerning the handling of such information. These safeguards include procedures to document proper accounting for access to and disclosure of the information.

Recipients of Section 1367 information who make unauthorized disclosures are not considered for future information sharing until they have conducted an internal audit to determine how the unauthorized disclosure occurred, and have submitted to the Director of U.S. Citizenship and Immigration Services, via CBP, any remedial measures that have been taken to prevent additional unauthorized disclosures in the future. The Director of U.S. Citizenship and Immigration Services then decides if information sharing should resume based upon the results of the requestor’s internal audit and the remedial measures undertaken by the recipient.

In the event that **Agency** discloses Section 1367 information in a manner inconsistent with the provisions above, or is informed by the recipient of Section 1367 information that the recipient has disclosed that information in an unauthorized manner, **Agency** will immediately notify CBP by sending an email notification detailing the disclosure to **(b) (7)(E)** [@cbp.dhs.gov](mailto:cbp.dhs.gov) as soon as is practicable, but in no event later than 24 hours after discovery of the unauthorized disclosure.